

REMARKS

Claims 1-11 are pending in the present application.

Claims 8-11 stand withdrawn.

Claims 1-7 stand rejected under 35 USC§ 103(a) as being unpatentable over U.S. Pat. No. 5,632,756 to Kruglick in view of U.S. Pat. No. 6,736,826 to Begun.

Kruglick is cited as disclosing an appliance for ear cleaning comprising

“an elongated **hollow** tube defining a stem (24)
having at least one open end (end closest to monofilaments. (FIG. 2),

a plurality of lengths of monofilament (28), each having an outboard end and an inboard end,

a mass bonding each of said outboard ends of said monofilaments to one another with the respective ones of said plurality of lengths of said monofilaments

at locations disposed substantially 90 degrees apart about the periphery of said mass and

with each of said lengths of monofilament extending laterally away from said mass (FIG.7, **intersection of monofilaments**)

said mass extending laterally thereof onto each of said outboard ends of said lengths of monofilament,

each of said plurality of length of monofilaments being **bent along its length**

to the extent that each of said inboard ends of each of said plurality of lengths of monofilament are gathered together in side by side, closely packed, relationship (FIG.2),

said gathered inboard ends of said lengths of monofilaments being received **with said at least one open end of said stem,**

means bonding said gathered inboard ends of said lengths of monofilaments within said at least one open end of said stem, ...”
(emphasis added)

At the outset, applicant wishes to clarify apparent misunderstandings as to the relative construction of the ear appliance of applicant and the ear appliance of Kruglick.

First, applicant claims an ear cleaning device which includes an "elongated hollow tube defining a stem having **at least one open end**". (emphasis added).

No reference has been found in the Kruglick patent where the "handle 12" is **hollow** as stated by the Examiner. Applicant claims "said gathered inboard ends of said lengths of monofilaments being received with said at least one open end of said stem, "and" means bonding said gathered inboard ends of said lengths of monofilaments within said at least one open end of said stem, thereby defining a bulbous configuration of said plurality of lengths of monofilaments." Clearly, in applicant's claimed device a hollow end in the stem of application is to receive therein the gathered outboard ends of the bent monofilaments and provide a location for the bonding of the ends within the stem.

Kruglick discloses at col. 3, lines 31, et seq. that:

"The handle 12 is a rigid cylindrical member 24..."

and,

At column 3, line 35 et seq. it is disclosed that:

"FIGS. 1 through 9 illustrate a disposable ear cleaning device 10 comprising a handle 12 and a structure 14 **on one end** of the handle 12 for engaging, capturing and extracting ear wax 16 located in an ear canal 18 in an ear 20 of a person 22." Note that this statement includes FIG. 2 of Kruglick).

At column 3, lines 52, et seq. Kruglick further states that:

"The rigid cylindrical member 24 and the multiple banded cage 28 are **integral** and fabricated out of plastic material 31." This description of the Kruglick device teaches that the handle 23 and the structure 14 be formed as a whole, in contrast to Applicant's claimed device in which the device comprises an assembly of individual monofilaments bonded together at their inboard ends with the bonding agent spreading along a portion of the length of each monofilament in a direction laterally away from their respective inboard ends, with the outboard ends of the filaments thereafter being gathered together and

inserted into an open end of the stem where they are bonded to the stem.

Moreover, at column 3, lines 57 et seq. Kruglick discloses that:

“The insertion controlling component 32 is a safety stop shield 34 **between the rigid cylindrical member 24 and the multiple banded cage 28.**” (emphasis added). Thus, Kruglick teaches that the “cage” is separable from the handle, a feature that negates the possibility of using “gathered together” outboard ends of multiple monofilaments suitable to be disposed with an open end of the stem. Interdiction of a “safety stop” between the grouped monofilaments of applicant’s device and the end of the open end of the stem would render applicant’s device inoperative.

The Kruglick device clearly teaches that the handle and his device includes a “structure 14” which is formed integral with the handle, not a bulbous structure having the structure set forth in Claim 1 of the present application which is formed as a separate component and thereafter secured to a stem by means of insertion of the gathered intboard ends of a plurality of lengths of monofilament into an open end of the stem and thereafter bonded within the end of the stem.

The foregoing distinction between the device of Kruglick and the device claimed by applicant is important with respect to the efficacy of the device. Specifically, it is of importance that the monofilaments (or bands in the Kruglick device) remain “expanded” to their most “bulbous” configuration when the device is inserted into an ear canal and rotated to extract ear wax. If the “bulb” collapses during use, there is a closing up of the several monofilaments (or bands) such that the internal cavity of the “bulb” is no longer available to receive and hold extracted ear wax, thereby rendering the device either inefficient or even useless for its intended purpose.

In applicant’s claimed device, the monofilaments which define the bulbous configuration are individually placed under tension when they are bent into their bulbous configuration. This tension adds significant resistance to any potential collapse of the bulbous configuration of applicant’s device. To the contrary, Kruglick neither teaches, discloses nor suggests that the monofilaments (or bands in the Kruglick device) should be so arranged as claimed by applicant in order to tension the monofilaments (or bands in the Kruglick) configuration to thereby enhance the resistance of the bulbous configuration when in use.

Second, no reference has been found in Kruglick with respect to the spreading of a mass of bonding agent laterally along a portion of the length of the outboard ends of the monofilaments, as suggested by the Examiner. Especially there has not been found in Kruglick any teaching, disclosure nor any suggestion that such structure enhances the tension in the monofilaments by reason of the monofilaments whose outboard ends have been bonded as claimed by applicant and thereafter being bent along their respective lengths, hence enhancing the resistance of the monofilaments to collapse during use of the device.

For these reasons, among others, it is respectfully suggested that Kruglick fails to either teach, disclose or suggest the structural makeup of applicant's claimed appliance for ear cleaning and therefore fails as a primary reference in the combination of prior art suggested by the Examiner.

The Begun patent (U.S. 6,736,826) is cited as teaching the use of polypropylene in an ear cleaning device. Claim 3 is the only Claim in the present application which calls for polypropylene as the material of construction of the claimed appliance. Claim 3, along with Claims 2, 4-7, are dependent, either directly or indirectly, upon Claim 1 and therefore inherit each and every element of Claim 1. Allowance of these dependent Claims is urged for the same reasons, among others, as set forth in the above discussion of the allowability of Claim 1 as amended.

Withdrawal of the rejection Claims 1-7 under 35 USC §103(a) as being unpatentable over Kruglick in view of Begun is respectfully requested.

The Examiner's observation relating to the status of Claim 7 as a product Claim is noted. As noted above, Claim 7 is dependent, indirectly, on Claim 1 and inherits each and every limitation of its parent, and any intervening, Claim, hence is allowable as urged hereinabove.

The Examiner has objected to the drawings by reason of the absence in the drawings of the numerals 50, 72 and 130. Replacement Sheets including Figures 1, 2 and 4 and 3C and 3D are submitted herewith.

In the corrected drawings, the numeral 54 should have been 50. This change has been made in Fig. 3D.

Further, the numeral 130 was inadvertently omitted from Fig. 3D and has been added to this Fig.

The numeral 70 is found in Fig. 4 as originally submitted so that no change has been made with respect to this numeral.

As observed by the Examiner, the numeral 54 is not referenced in the specification. As noted above this numeral should have been 50 and such change has been made.

The numerals 64 and 67 are also noted to be absent from the specification. By the present amended drawings, the numerals 64 and 67 have been deleted from Fig. 3C and Fig. 4, respectively.

Introduction of the enclosed two Replacement Sheets of drawings and withdrawal of the objections to the drawings are respectfully requested.

Reconsideration of the application and allowance of Claims 1-7, as amended, are respectfully requested.

Respectfully submitted,



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2/1/05
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